

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-1825-PST-E TCEQ ID: RN101872265 CASE NO.: 36849
RESPONDENT NAME: SINDLO, INC. DBA RUBYS FOOD STORE

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATIONS OCCURRED: 7500 Almeda Road, Houston, Harris County

TYPE OF OPERATION: convenience store with retail sales of gasoline

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired June 22, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Stephanie Frazee, Litigation Division, MC 175, (512) 239-3693
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Michael Pace, Waste Enforcement Section, MC R-4, (817) 588-5933

TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

Respondent: Mr. Sadruddin Noor Mohd, Director, SINDLO, INC., 4803 Schiller Park, Sugarland, Texas 77479
Mr. Sadruddin Noor Mohd, Director, SINDLO, INC., 7500 Almeda Road, Houston, Texas 77054

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Investigation Relating to this Case: October 28, 2008</p> <p>Date of NOE Relating to this Case: November 18, 2008</p> <p>Background Facts: The EDPRP was filed March 26, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on March 28, 2009, as evidenced by the signature on the card. The Respondent failed to file an answer, and a Default Order was set on the June 26, 2009, agenda. The Respondent filed an answer on June 17, 2009, and the matter was remanded to the Executive Director and referred to SOAH. On July 31, 2009, the TCEQ Chief Clerk mailed to the Respondent notice of the preliminary hearing scheduled for September 3, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," on August 3, 2009, the Respondent received notice of the preliminary hearing. On September 3, 2009, the ALJ convened the preliminary hearing, but the Respondent failed to appear. The ED requested that the matter be remanded back to the ED and dismissed from the SOAH docket so that a Default Order may be entered.</p> <p>Current Compliance Status: The Respondent conducted the Stage II annual system compliance testing on October 28, 2008. The Respondent's delivery certificate expires in May 2010.</p> <p>PST: Failed to verify proper operation of the Stage II equipment at least once every 12 months [30 TEX. ADMIN. CODE § 115.245(2) and TEX HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$2,884</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$2,884</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken: The Executive Director recognizes that on October 28, 2008, the Respondent conducted the Stage II annual system compliance testing.</p> <p>Ordering Provisions: The Respondent's UST delivery certificate is revoked immediately. The Respondent may submit an application for a new delivery certificate only after complying with all requirements of this Order.</p> <p>Within 10 days, the Respondent shall send its UST delivery certificate the TCEQ.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	24-Nov-2008	Screening	26-Nov-2008	EPA Due	
	PCW	27-Feb-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	SINDLO, INC. dba Rubys Food Store		
Reg. Ent. Ref. No.	RN101872265		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	36849	No. of Violations	1
Docket No.	2008-1825-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Mike Pace
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0.0% Enhancement **Subtotals 2, 3, & 7** \$0

Notes No adjustment due to compliance history.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$384
Approx. Cost of Compliance \$350
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$2,500

OTHER FACTORS AS JUSTICE MAY REQUIRE 15.4% **Adjustment** \$384

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost of compliance associated with the violation.

Final Penalty Amount \$2,884

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$2,884

DEFERRAL 0.0% Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral not offered for non-expedited settlement.

PAYABLE PENALTY \$2,884

Screening Date 26-Nov-2008

Docket No. 2008-1825-PST-E

PCW

Respondent SINDLO, INC. dba Rubys Food Store

Policy Revision 2 (September 2002)

Case ID No. 36849

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101872265

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Mike Pace

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment due to compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 26-Nov-2008		Docket No. 2008-1825-PST-E		PCW																				
Respondent SINDLO, INC. dba Rubys Food Store		<i>Policy Revision 2 (September 2002)</i>																						
Case ID No. 36849		<i>PCW Revision October 30, 2008</i>																						
Reg. Ent. Reference No. RN101872265																								
Media [Statute] Petroleum Storage Tank																								
Enf. Coordinator Mike Pace																								
Violation Number		<div style="border: 1px solid black; padding: 2px;">1</div>																						
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)</div>																						
Violation Description		<div style="border: 1px solid black; padding: 2px;">Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual system compliance testing had not been conducted.</div>																						
Base Penalty				<div style="border: 1px solid black; padding: 2px;">\$10,000</div>																				
>> Environmental, Property and Human Health Matrix																								
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <th colspan="3">Harm</th> </tr> <tr> <td></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> </tr> <tr> <td>Release</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> </table>					Harm				Major	Moderate	Minor	Release				Actual				Potential	x		
		Harm																						
		Major	Moderate	Minor																				
Release																								
Actual																								
Potential	x																							
Percent				<div style="border: 1px solid black; padding: 2px;">25%</div>																				
>> Programmatic Matrix																								
Matrix Notes	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> </tr> <tr> <td>Falsification</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table>					Major	Moderate	Minor	Falsification				Actual				Potential							
		Major	Moderate	Minor																				
	Falsification																							
Actual																								
Potential																								
Percent				<div style="border: 1px solid black; padding: 2px;">0%</div>																				
Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.																								
Adjustment				<div style="border: 1px solid black; padding: 2px;">\$7,500</div>																				
				<div style="border: 1px solid black; padding: 2px;">\$2,500</div>																				
Violation Events																								
Number of Violation Events		<div style="border: 1px solid black; padding: 2px;">1</div>	Number of violation days	<div style="border: 1px solid black; padding: 2px;">365</div>																				
mark only one with an x	daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																						
	weekly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																						
	monthly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																						
	quarterly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																						
	semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																						
	annual	x																						
	single event	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																						
One annual event is recommended for the 12-month period preceding the October 28, 2008 investigation.																								
Violation Base Penalty				<div style="border: 1px solid black; padding: 2px;">\$2,500</div>																				
Good Faith Efforts to Comply																								
		0.0% Reduction		<div style="border: 1px solid black; padding: 2px;">\$0</div>																				
		Before NOV	NOV to EDPRP/Settlement Offer																					
Extraordinary	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																						
Ordinary	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																						
N/A	x	(mark with x)																						
Notes	The Respondent came into compliance on October 28, 2008. However, no Good Faith Reduction is offered when a Default Order is recommended.																							
Violation Subtotal				<div style="border: 1px solid black; padding: 2px;">\$2,500</div>																				
Economic Benefit (EB) for this violation																								
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px;">\$384</div>	Statutory Limit Test																					
			Violation Final Penalty Total																					
			<div style="border: 1px solid black; padding: 2px;">\$2,884</div>																					
This violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; padding: 2px;">\$2,884</div>																				

Economic Benefit Worksheet

Respondent: SINDLO, INC. dba Rubys Food Store
Case ID No. 36849
Reg. Ent. Reference No. RN101872265
Media: Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$350	28-Oct-2007	28-Oct-2008	1.92	\$34	\$350	\$384
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The actual cost for annual testing to verify proper operation of the Stage II equipment per receipt submitted by the Respondent. The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$350

TOTAL

\$384

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601020258	SINDLO, INC.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN101872265	Rubys Food Store	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	69987	
Location:	7500 ALMEDA RD, HOUSTON, TX, 77054	Rating Date: 9/1/2008	Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	November 24, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 24, 2003 to November 24, 2008			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Mike Pace Phone: 817-588-5933

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 11/18/2008 (707084)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SINDLO, INC. DBA RUBYS FOOD
STORE,
RN101872265**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2008-1825-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty on the respondent and revocation of the respondent's fuel delivery certificate. The respondent made the subject of this Order is SINDLO, INC. dba Rubys Food Store ("SINDLO, INC.").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. SINDLO, INC. owns and operates a convenience store with retail sales of gasoline located at 7500 Almeda Road, Houston, Harris County, Texas (the "Station").
2. SINDLO, INC.'s two (2) underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. SINDLO INC.'s USTs contain a regulated substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation October 28, 2008, a TCEQ Houston Local Program investigator documented that SINDLO, INC. failed to verify proper operation of the Stage II equipment at least once every twelve (12) months. Specifically, the Stage II annual system compliance testing had not been conducted.
4. SINDLO, INC. received notice of the violation on or about November 23, 2008.

5. The Executive Director recognizes that SINDLO, INC. conducted the Stage II annual system compliance testing on October 28, 2008.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against SINDLO, INC. dba Rubys Food Service" (the "EDPRP") in the TCEQ Chief Clerk's office on March 26, 2009.
7. By letter dated March 26, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served SINDLO, INC. with notice of the EDPRP. According to the return receipt "green card," SINDLO, INC. received notice of the EDPRP on March 28, 2009, as evidenced by the signature on the card.
8. SINDLO, INC. filed an answer requesting a hearing on June 17, 2009, and, pursuant to 30 TEX. ADMIN. CODE § 70.109, the matter was referred to the State Office of Administrative Hearings ("SOAH") on July 21, 2009.
9. On July 31, 2009, the TCEQ Chief Clerk mailed the Notice of the September 3, 2009, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to SINDLO, INC. According to the return receipt "green card," SINDLO, INC. received notice of the September 3, 2009, preliminary hearing on August 3, 2009, as evidenced by the signature on the card.
10. On September 3, 2009, the Administrative Law Judge ("ALJ") convened the preliminary hearing, but SINDLO, INC. failed to appear. The Executive Director requested that the matter be remanded to the Executive Director so that a Default Order may be entered and the case may be dismissed from the SOAH Docket.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, SINDLO, INC. is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, SINDLO, INC. failed to verify proper operation of the Stage II equipment at least once every twelve (12) months in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b).

3. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served SINDLO, INC. with proper notice of the EDPRP as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 8, SINDLO, INC. filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 30 TEX. ADMIN. CODE § 70.109.
5. As evidenced by Finding of Fact No. 9, SINDLO, INC. was provided proper notice of the preliminary hearing pursuant to TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058 and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.425, 70.104, and 80.6(b)(3).
6. As evidenced by Finding of Fact No. 10, SINDLO, INC. failed to appear for the preliminary hearing. Pursuant to TEX. GOV'T CODE § 2001.056, TEX. WATER CODE § 7.057, and 30 TEX. ADMIN. CODE § 70.106(b), the Commission may enter a Default Order against SINDLO, INC. and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against SINDLO, INC. for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of two thousand eight hundred eighty four dollars (\$2,884.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
10. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke SINDLO, INC.'s UST delivery certificate if the Commission finds that good cause exists.
11. Good cause for revocation of SINDLO, INC.'s UST delivery certificate exists as justified by Findings of Fact Nos. 2, 3, 4, and 6 through 10, and Conclusions of Law Nos. 2 through 6.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. SINDLO, INC. is assessed an administrative penalty in the amount of two thousand eight hundred eighty four dollars (\$2,884.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and SINDLO INC.'s compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within thirty (30) days after the effective date of this Order and shall be sent with the notation "Re: SINDLO, INC. dba Rubys Food Store; Docket No. 2008-1825-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office; MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. SINDLO, INC.'s UST delivery certificate is revoked immediately upon the effective date of this Order. SINDLO, INC. may submit an application for a new delivery certificate only after SINDLO, INC. has complied with all of the requirements of this Order.
3. Within ten (10) days after the effective date of this Order, SINDLO, INC. shall send its UST delivery certificate to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon SINDLO, INC. SINDLO, INC. is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.

6. If SINDLO, INC. fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, SINDLO, INC.'s failure to comply is not a violation of this Order. SINDLO, INC. shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. SINDLO, INC. shall notify the Executive Director within seven days after SINDLO, INC. becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by SINDLO, INC. shall be made in writing to the Executive Director. Extensions are not effective until SINDLO, INC. receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to SINDLO, INC. if the Executive Director determines that SINDLO, INC. has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SINDLO, INC. dba Rubys Food Store
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF STEPHANIE J. FRAZEE

STATE OF TEXAS

§

§

COUNTY OF TRAVIS

§

"My name is Stephanie J. Frazee. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

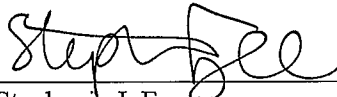
On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against SINDLO, INC. dba Rubys Food Store" (the "EDPRP") was filed with the Office of the Chief Clerk on March 26, 2009.

I sent the EDPRP to SINDLO, INC. at its last known address on March 26, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," SINDLO, INC. received notice of the EDPRP on March 28, 2009, as evidenced by the signature on the card.

SINDLO, INC. filed an answer requesting a hearing on June 17, 2009, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on July 21, 2009.

Notice of the September 3, 2009, preliminary hearing was mailed to SINDLO, INC. by the TCEQ Chief Clerk on July 31, 2009. The Notice was sent to SINDLO, INC. via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," SINDLO, INC. received the Notice of the Preliminary Hearing on August 3, 2009.

SINDLO, INC. failed to appear at the preliminary hearing on September 3, 2009. At that hearing, I requested and received a finding that SINDLO, INC. was served with proper notice of the hearing. I also requested and received a remand from the Administrative Law Judge pursuant to 1 TEX. ADMIN. CODE § 155.501(e)(1), which gives an ALJ the authority to remand the case back to the agency "to allow the agency to dispose of the case on a default basis under TEX. GOV'T CODE § 2001.056 and the referring agency's rules." Pursuant to TEX. GOV'T CODE § 2001.056, TEX. WATER CODE § 7.057, and 30 TEX. ADMIN. CODE § 70.106(b), the Commission may enter a Default Order against SINDLO, INC. and assess the penalty recommended by the Executive Director."



Stephanie J. Frazee

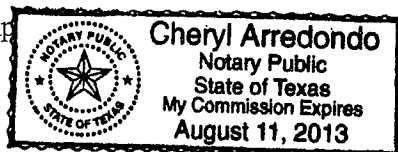
Attorney

Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Stephanie J. Frazee, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 18th day of Sept, A.D., 2009.

Notary Stamp





Notary Signature